

Senate Bill 325

Sponsored by Senator METSGER (at the request of Shirley and Will Wilson) (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits properties within exclusive farm use zones to be used for weddings and other commercial gatherings.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to exclusive farm use zoning; amending ORS 215.283; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1.** ORS 215.283 is amended to read:

5 215.283. (1) The following uses may be established in any area zoned for exclusive farm use:

6 (a) Public or private schools, including all buildings essential to the operation of a school.

7 (b) Churches and cemeteries in conjunction with churches.

8 (c) The propagation or harvesting of a forest product.

9 (d) Utility facilities necessary for public service, including wetland waste treatment systems but
10 not including commercial facilities for the purpose of generating electrical power for public use by
11 sale or transmission towers over 200 feet in height. A utility facility necessary for public service
12 may be established as provided in ORS 215.275.

13 (e) A dwelling on real property used for farm use if the dwelling is occupied by a relative of the
14 farm operator or the farm operator's spouse, which means a child, parent, stepparent, grandchild,
15 grandparent, stepgrandparent, sibling, stepsibling, niece, nephew or first cousin of either, if the farm
16 operator does or will require the assistance of the relative in the management of the farm use and
17 the dwelling is located on the same lot or parcel as the dwelling of the farm operator.
18 Notwithstanding ORS 92.010 to 92.190 or the minimum lot or parcel size requirements under ORS
19 215.780, if the owner of a dwelling described in this paragraph obtains construction financing or
20 other financing secured by the dwelling and the secured party forecloses on the dwelling, the se-
21 cured party may also foreclose on the homesite, as defined in ORS 308A.250, and the foreclosure
22 shall operate as a partition of the homesite to create a new parcel.

23 (f) Primary or accessory dwellings and other buildings customarily provided in conjunction with
24 farm use.

25 (g) Operations for the exploration for and production of geothermal resources as defined by ORS
26 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of
27 compressors, separators and other customary production equipment for an individual well adjacent
28 to the wellhead. Any activities or construction relating to such operations shall not be a basis for
29 an exception under ORS 197.732 (2)(a) or (b).

30 (h) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or
31 construction relating to such operations shall not be a basis for an exception under ORS 197.732

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted.
New sections are in **boldfaced** type.

1 (2)(a) or (b).

2 (i) A site for the disposal of solid waste that has been ordered to be established by the Envi-
3 ronmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings
4 necessary for its operation.

5 (j) The breeding, kenneling and training of greyhounds for racing.

6 (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.

7 (L) Reconstruction or modification of public roads and highways, including the placement of
8 utility facilities overhead and in the subsurface of public roads and highways along the public right
9 of way, but not including the addition of travel lanes, where no removal or displacement of buildings
10 would occur, or no new land parcels result.

11 (m) Temporary public road and highway detours that will be abandoned and restored to original
12 condition or use at such time as no longer needed.

13 (n) Minor betterment of existing public road and highway related facilities such as maintenance
14 yards, weigh stations and rest areas, within right of way existing as of July 1, 1987, and contiguous
15 public-owned property utilized to support the operation and maintenance of public roads and high-
16 ways.

17 (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has
18 been listed in a county inventory as historic property as defined in ORS 358.480.

19 (p) Creation of, restoration of or enhancement of wetlands.

20 (q) A winery, as described in ORS 215.452.

21 (r) Farm stands if:

22 (A) The structures are designed and used for the sale of farm crops or livestock grown on the
23 farm operation, or grown on the farm operation and other farm operations in the local agricultural
24 area, including the sale of retail incidental items and fee-based activity to promote the sale of farm
25 crops or livestock sold at the farm stand if the annual sale of incidental items and fees from pro-
26 motional activity do not make up more than 25 percent of the total annual sales of the farm stand;
27 and

28 (B) The farm stand does not include structures designed for occupancy as a residence or for
29 activity other than the sale of farm crops or livestock and does not include structures for banquets,
30 public gatherings or public entertainment.

31 (s) Alteration, restoration or replacement of a lawfully established dwelling that:

32 (A) Has intact exterior walls and roof structure;

33 (B) Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to
34 a sanitary waste disposal system;

35 (C) Has interior wiring for interior lights;

36 (D) Has a heating system; and

37 (E) In the case of replacement:

38 (i) Is removed, demolished or converted to an allowable nonresidential use within three months
39 of the completion of the replacement dwelling. A replacement dwelling may be sited on any part of
40 the same lot or parcel. A dwelling established under this paragraph shall comply with all applicable
41 siting standards. However, the standards shall not be applied in a manner that prohibits the siting
42 of the dwelling. If the dwelling to be replaced is located on a portion of the lot or parcel not zoned
43 for exclusive farm use, the applicant, as a condition of approval, shall execute and record in the
44 deed records for the county where the property is located a deed restriction prohibiting the siting
45 of a dwelling on that portion of the lot or parcel. The restriction imposed shall be irrevocable unless

1 a statement of release is placed in the deed records for the county. The release shall be signed by
2 the county or its designee and state that the provisions of this paragraph regarding replacement
3 dwellings have changed to allow the siting of another dwelling. The county planning director or the
4 director's designee shall maintain a record of the lots and parcels that do not qualify for the siting
5 of a new dwelling under the provisions of this paragraph, including a copy of the deed restrictions
6 and release statements filed under this paragraph; and

7 (ii) For which the applicant has requested a deferred replacement permit, is removed or demol-
8 ished within three months after the deferred replacement permit is issued. A deferred replacement
9 permit allows construction of the replacement dwelling at any time. If, however, the established
10 dwelling is not removed or demolished within three months after the deferred replacement permit
11 is issued, the permit becomes void. The replacement dwelling must comply with applicable building
12 codes, plumbing codes, sanitation codes and other requirements relating to health and safety or to
13 siting at the time of construction. A deferred replacement permit may not be transferred, by sale
14 or otherwise, except by the applicant to the spouse or a child of the applicant.

15 (t) A site for the takeoff and landing of model aircraft, including such buildings or facilities as
16 may reasonably be necessary. Buildings or facilities shall not be more than 500 square feet in floor
17 area or placed on a permanent foundation unless the building or facility preexisted the use approved
18 under this paragraph. The site shall not include an aggregate surface or hard surface area unless
19 the surface preexisted the use approved under this paragraph. As used in this paragraph, "model
20 aircraft" means a small-scale version of an airplane, glider, helicopter, dirigible or balloon that is
21 used or intended to be used for flight and is controlled by radio, lines or design by a person on the
22 ground.

23 (u) A facility for the processing of farm crops, or the production of biofuel as defined in ORS
24 315.141, that is located on a farm operation that provides at least one-quarter of the farm crops
25 processed at the facility. The building established for the processing facility shall not exceed 10,000
26 square feet of floor area exclusive of the floor area designated for preparation, storage or other farm
27 use or devote more than 10,000 square feet to the processing activities within another building
28 supporting farm uses. A processing facility shall comply with all applicable siting standards but the
29 standards shall not be applied in a manner that prohibits the siting of the processing facility.

30 (v) Fire service facilities providing rural fire protection services.

31 (w) Irrigation canals, delivery lines and those structures and accessory operational facilities
32 associated with a district as defined in ORS 540.505.

33 (x) Utility facility service lines. Utility facility service lines are utility lines and accessory fa-
34 cilities or structures that end at the point where the utility service is received by the customer and
35 that are located on one or more of the following:

36 (A) A public right of way;

37 (B) Land immediately adjacent to a public right of way, provided the written consent of all ad-
38 jacent property owners has been obtained; or

39 (C) The property to be served by the utility.

40 (y) Subject to the issuance of a license, permit or other approval by the Department of Envi-
41 ronmental Quality under ORS 454.695, 459.205, 468B.050, 468B.053 or 468B.055, or in compliance with
42 rules adopted under ORS 468B.095, and as provided in ORS 215.246 to 215.251, the land application
43 of reclaimed water, agricultural or industrial process water or biosolids for agricultural,
44 horticultural or silvicultural production, or for irrigation in connection with a use allowed in an
45 exclusive farm use zone under this chapter.

1 (z) A county law enforcement facility that lawfully existed on August 20, 2002, and is used to
 2 provide rural law enforcement services primarily in rural areas, including parole and post-prison
 3 supervision, but not including a correctional facility as defined under ORS 162.135.

4 (2) The following nonfarm uses may be established, subject to the approval of the governing body
 5 or its designee in any area zoned for exclusive farm use subject to ORS 215.296:

6 (a) Commercial activities that are in conjunction with farm use, including the processing of farm
 7 crops into biofuel not permitted under ORS 215.203 (2)(b)(L) or subsection (1)(u) of this section.

8 (b) Operations conducted for:

9 (A) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas
 10 as defined by ORS 520.005 not otherwise permitted under subsection (1)(g) of this section;

11 (B) Mining, crushing or stockpiling of aggregate and other mineral and other subsurface re-
 12 sources subject to ORS 215.298;

13 (C) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and

14 (D) Processing of other mineral resources and other subsurface resources.

15 (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds. **A tract of land**
 16 **with associated structures regularly used for weddings and other commercial gatherings that**
 17 **do not involve overnight stays is considered a private park.** Subject to the approval of the
 18 county governing body or its designee, a private campground may provide yurts for overnight
 19 camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include
 20 a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation.
 21 Upon request of a county governing body, the Land Conservation and Development Commission may
 22 provide by rule for an increase in the number of yurts allowed on all or a portion of the
 23 campgrounds in a county if the commission determines that the increase will comply with the stan-
 24 dards described in ORS 215.296 (1). As used in this paragraph, "yurt" means a round, domed shelter
 25 of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hookup or internal
 26 cooking appliance.

27 (d) Parks and playgrounds. A public park may be established consistent with the provisions of
 28 ORS 195.120.

29 (e) Community centers owned by a governmental agency or a nonprofit community organization
 30 and operated primarily by and for residents of the local rural community. A community center au-
 31 thorized under this paragraph may provide services to veterans, including but not limited to emer-
 32 gency and transitional shelter, preparation and service of meals, vocational and educational
 33 counseling and referral to local, state or federal agencies providing medical, mental health, disability
 34 income replacement and substance abuse services, only in a facility that is in existence on January
 35 1, 2006. The services may not include direct delivery of medical, mental health, disability income
 36 replacement or substance abuse services.

37 (f) Golf courses.

38 (g) Commercial utility facilities for the purpose of generating power for public use by sale.

39 (h) Personal-use airports for airplanes and helicopter pads, including associated hangar, main-
 40 tenance and service facilities. A personal-use airport, as used in this section, means an airstrip re-
 41 stricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional
 42 basis, by invited guests, and by commercial aviation activities in connection with agricultural op-
 43 erations. No aircraft may be based on a personal-use airport other than those owned or controlled
 44 by the owner of the airstrip. Exceptions to the activities permitted under this definition may be
 45 granted through waiver action by the Oregon Department of Aviation in specific instances. A

1 personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted sub-
2 ject to any applicable rules of the Oregon Department of Aviation.

3 (i) Home occupations as provided in ORS 215.448.

4 (j) A facility for the primary processing of forest products, provided that such facility is found
5 to not seriously interfere with accepted farming practices and is compatible with farm uses de-
6 scribed in ORS 215.203 (2). Such a facility may be approved for a one-year period which is
7 renewable. These facilities are intended to be only portable or temporary in nature. The primary
8 processing of a forest product, as used in this section, means the use of a portable chipper or stud
9 mill or other similar methods of initial treatment of a forest product in order to enable its shipment
10 to market. Forest products, as used in this section, means timber grown upon a parcel of land or
11 contiguous land where the primary processing facility is located.

12 (k) A site for the disposal of solid waste approved by the governing body of a city or county or
13 both and for which a permit has been granted under ORS 459.245 by the Department of Environ-
14 mental Quality together with equipment, facilities or buildings necessary for its operation.

15 (L) One manufactured dwelling or recreational vehicle, or the temporary residential use of an
16 existing building, in conjunction with an existing dwelling as a temporary use for the term of a
17 hardship suffered by the existing resident or a relative of the resident. Within three months of the
18 end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demol-
19 ished or, in the case of an existing building, the building shall be removed, demolished or returned
20 to an allowed nonresidential use. The governing body or its designee shall provide for periodic re-
21 view of the hardship claimed under this paragraph. A temporary residence approved under this
22 paragraph is not eligible for replacement under subsection (1)(s) of this section.

23 (m) Transmission towers over 200 feet in height.

24 (n) Dog kennels not described in subsection (1)(j) of this section.

25 (o) Residential homes as defined in ORS 197.660, in existing dwellings.

26 (p) The propagation, cultivation, maintenance and harvesting of aquatic species that are not
27 under the jurisdiction of the State Fish and Wildlife Commission or insect species. Insect species
28 shall not include any species under quarantine by the State Department of Agriculture or the United
29 States Department of Agriculture. The county shall provide notice of all applications under this
30 paragraph to the State Department of Agriculture. Notice shall be provided in accordance with the
31 county's land use regulations but shall be mailed at least 20 calendar days prior to any administra-
32 tive decision or initial public hearing on the application.

33 (q) Construction of additional passing and travel lanes requiring the acquisition of right of way
34 but not resulting in the creation of new land parcels.

35 (r) Reconstruction or modification of public roads and highways involving the removal or dis-
36 placement of buildings but not resulting in the creation of new land parcels.

37 (s) Improvement of public road and highway related facilities, such as maintenance yards, weigh
38 stations and rest areas, where additional property or right of way is required but not resulting in
39 the creation of new land parcels.

40 (t) A destination resort that is approved consistent with the requirements of any statewide
41 planning goal relating to the siting of a destination resort.

42 (u) Room and board arrangements for a maximum of five unrelated persons in existing resi-
43 dences.

44 (v) Operations for the extraction and bottling of water.

45 (w) Expansion of existing county fairgrounds and activities directly relating to county

1 fairgrounds governed by county fair boards established pursuant to ORS 565.210.

2 (x) A living history museum related to resource based activities owned and operated by a gov-
3 ernmental agency or a local historical society, together with limited commercial activities and fa-
4 cilities that are directly related to the use and enjoyment of the museum and located within
5 authentic buildings of the depicted historic period or the museum administration building, if areas
6 other than an exclusive farm use zone cannot accommodate the museum and related activities or if
7 the museum administration buildings and parking lot are located within one quarter mile of an ur-
8 ban growth boundary. As used in this paragraph:

9 (A) "Living history museum" means a facility designed to depict and interpret everyday life and
10 culture of some specific historic period using authentic buildings, tools, equipment and people to
11 simulate past activities and events; and

12 (B) "Local historical society" means the local historical society recognized by the county gov-
13 erning body and organized under ORS chapter 65.

14 (y) An aerial fireworks display business that has been in continuous operation at its current
15 location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's
16 permit to sell or provide fireworks.

17 (z) A landscape contracting business, as defined in ORS 671.520, or a business providing land-
18 scape architecture services, as described in ORS 671.318, if the business is pursued in conjunction
19 with the growing and marketing of nursery stock on the land that constitutes farm use.

20 (3) Roads, highways and other transportation facilities and improvements not allowed under
21 subsections (1) and (2) of this section may be established, subject to the approval of the governing
22 body or its designee, in areas zoned for exclusive farm use subject to:

23 (a) Adoption of an exception to the goal related to agricultural lands and to any other applicable
24 goal with which the facility or improvement does not comply; or

25 (b) ORS 215.296 for those uses identified by rule of the Land Conservation and Development
26 Commission as provided in section 3, chapter 529, Oregon Laws 1993.

27 **SECTION 2. This 2009 Act being necessary for the immediate preservation of the public**
28 **peace, health and safety, an emergency is declared to exist, and this 2009 Act takes effect**
29 **on its passage.**

30